

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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To:

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MARKS & CLERK
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Oxford OX4 2RU
GRANDE BRETAGNE

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(PCT Rule 71.1)

Date of mailing
(day/month/year)

18.05.2005

Applicant's or agent's file reference
RL.P53153WO

IMPORTANT NOTIFICATION

International application No.
PCT/IB2004/051318

International filing date (day/month/year)
28.07.2004

Priority date (day/month/year)
31.07.2003

Applicant
SID TECHNOLOGIES LLC et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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Tel. +49 89 2399 - 0 Tx: 523656 epmu d
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference RL.P53153WO	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/IB2004/051318	International filing date (day/month/year) 28.07.2004	Priority date (day/month/year) 31.07.2003	
International Patent Classification (IPC) or national classification and IPC A61M5/20, A61M5/32			
Applicant SID TECHNOLOGIES LLC et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 06.04.2005		Date of completion of this report 18.05.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Ceccarelli, D Telephone No. +49 89 2399-2653 	

INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITYInternational application No.
PCT/IB2004/051318**10/566333****Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-43 as originally filed

Claims, Numbers

1-70 as originally filed

Drawings, Sheets

1/60-60/60 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
 4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2004/051318

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 2-8,10-37,39-43,46-70

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 2-8,10-37,39-43,46-70 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

☐ See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/IB2004/051318

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1
	No: Claims	9,38,44,45
Inventive step (IS)	Yes: Claims	1
	No: Claims	9,38,44,45
Industrial applicability (IA)	Yes: Claims	1,9,38,44,45
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

Claims 1, 9, 38, 44 and 45 have been drafted as independent claims with almost complete overlapping scope, although defining technical features with different wording.

Drafting a plurality of such independent claims, followed by dependent claims which often repeat the same optional features, makes it unduly difficult to delimit the matter for which protection is sought.

As a result, the claims as a whole fail to comply with the clarity and conciseness requirements of Article 6 PCT to such an extent that a complete examination according to Article 33(1) PCT does not appear to be meaningful.

Therefore only the independent claims are examined according to Article 33(1) PCT.

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Claims 9, 38, 44 and 45 do not appear to be novel (Article 33(2) PCT) over the disclosure of at least document US2003/0105430 (D1).
Said document shows in figures 37-47 an injection device with a housing (304), a shield (302), a cartridge barrel (204) with a needle cannula (32), a stopper (38), a driver (208), a spring (20), a driver trigger (24), a release mechanism (48+56) and a titration rod (234) as defined in said claims. In particular, spring 20 is the single spring which is engaged with the driver (claim 44).
2. The subject-matter of claim 1 requires additionally that, upon actuation of the release mechanism, the spring coupled between the housing and the driver engages the shield and urges the shield away from the housing.
In document D1, considered as closest prior art, this is accomplished by the means of a second spring (50), which is not coupled between the housing and the driver. Similarly, none of the remaining documents of the search report teach the use of a single spring both for actuating the driver and for extending the shield.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/IB2004/051318

The arrangement of claim 1 provides for a simpler and more compact injector.
The subject-matter of claim 1 is therefore regarded as novel and inventive (Article 33(2) and (3) PCT) over the available prior art.

Re Item VII

Certain defects in the international application

The claims do not contain **reference signs** to the figures (Rule 6.2(b) PCT).
The independent claims are not drafted in the **two-part form** (Rule 6.3(b) PCT) over document D1, which is not cited in the description (Rule 5.1(a)(ii) PCT).